

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

----- x  
D.W.M., a minor by Willie Moore, his father,  
and Ursula Moore, his mother;  
D.D.M., a minor by Willie Moore,  
his father, and Ursula Moore,  
his mother, and WILLIE MOORE and URSULA  
MOORE,

Plaintiffs

-against-

Docket No.: 2:18-cv-3099(DRH)(GRB)

**ANSWER OF ST. MARY SCHOOL,  
BIAGIO M. ARPINO, PRINCIPAL OF  
ST. MARY SCHOOL AND THE  
ROMAN CATHOLIC DIOCESE OF  
ROCKVILLE CENTRE**

ST. MARY SCHOOL, BIAGIO M. ARPINO,  
Principal of St. Mary School, and THE ROMAN  
CATHOLIC DIOCESE OF ROCKVILLE CENTRE,  
L.M., M.J., and M.M., infants by their respective  
parents and natural guardians, KERRI  
LECHTRECKER, individually and as the mother  
of L.M., an infant, and E.G.M.  
(initials by Order of the Court), individually  
and as the father of L.M., an infant;  
"MIKE" JONES and CHRISTINE JONES,  
Individually and as parents and natural  
guardians of M.J., an infant; and KRZYSZTOF MARS  
and DOROTA MARS. Individually and as the  
parents and natural guardians of M.M., an infant,

Defendants.

----- x  
Defendants, **ST. MARY SCHOOL, BIAGIO M. ARPINO AND THE  
ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE**, appear, through their  
attorneys, **PATRICK F. ADAMS, P.C.**, and answer the Fourth Amended Complaint as  
follows:

1. Deny knowledge or information sufficient to form a belief as to the truth  
or falsity of the allegations in paragraph 1, paragraphs 10-16, paragraph 20, 21, paragraphs 25,  
26, paragraphs 28, 29, paragraphs 31, 32, paragraphs 33, 34, 35, paragraphs 40-57, 59, 60,

62-67, 73, 74, 76-78, 85-109, 111-119, 127, 133-136, 150-164, 166, 167, 195, 228-239, 258, 259 and 287.

2. Admit paragraphs 19, 22, 23, 27, 36, 37, 68, and 209-214.

3. Deny paragraphs 2-9, 17, 18, 24, 30, 38, 39, 58, 60, 61, 69-72, 75, 79-84, 110, 120-126, 128-132, 137-149, 165, 168-194, 196-208, 215-227, 240-257, 260-286, and 288-295.

**RESPONSE TO THE FIRST CAUSE OF ACTION**

4. Dismissed by Memorandum and Order dated August 27, 2019.

**RESPONSE TO THE SECOND CAUSE OF ACTION**

5. Dismissed by Memorandum and Order dated August 27, 2019.

**RESPONSE TO THIRD CAUSE OF ACTION**

6. Dismissed by Memorandum and Order dated August 27, 2019.

**RESPONSE TO FOURTH CAUSE OF ACTION**

7. Dismissed by Memorandum and Order dated August 27, 2019.

**RESPONSE TO FIFTH CAUSE OF ACTION**

8. In response to the Fifth Cause of Action, defendants repeat and reiterate each and every denial, admission and denial of knowledge and information sufficient to form a belief as to paragraphs "1" through "295" of plaintiff's Fourth Amended complaint as if same were fully set forth herein.

**RESPONSE TO SIXTH CAUSE OF ACTION**

9. In response to the Sixth Cause of Action, defendants repeat and reiterate each and every denial, admission and denial of knowledge and information sufficient to form a

belief as to paragraphs “1” through “295” of plaintiff’s Fourth Amended complaint as if same were fully set forth herein.

**RESPONSE TO SEVENTH CAUSE OF ACTION**

10. Dismissed by Memorandum and Order dated August 27, 2019.

**RESPONSE TO EIGHTH CAUSE OF ACTION**

11. In response to the Eighth Cause of Action, defendants repeat and reiterate each and every denial, admission and denial of knowledge and information sufficient to form a belief as to paragraphs “1” through “295” of plaintiff’s Fourth Amended complaint as if same were fully set forth herein.

**RESPONSE TO NINTH CAUSE OF ACTION**

12. Dismissed by Memorandum and Order dated August 27, 2019.

**RESPONSE TO TENTH CAUSE OF ACTION**

13. In response to the Tenth Cause of Action, defendants repeat and reiterate each and every denial, admission and denial of knowledge and information sufficient to form a belief as to paragraphs “1” through “295” of plaintiff’s Fourth Amended complaint as if same were fully set forth herein.

**FIRST AFFIRMATIVE DEFENSE**

14. What remains of the Fourth Amended Complaint fails to state a claim upon which relief may be granted.

**SECOND AFFIRMATIVE DEFENSE**

15. Plaintiffs have failed to establish that they suffered any damages whatsoever.

**THIRD AFFIRMATIVE DEFENSE**

16. The Fourth Amended Complaint fails to comply with the pleadings requirements of Rule 8 and is therefore a nullity.

**FOURTH AFFIRMATIVE DEFENSE**

17. The Plaintiffs are barred by one or more applicable statute of limitations.

**FIFTH AFFIRMATIVE DEFENSE**

18. The Plaintiffs have not pleaded a cognizable tort in the State of New York and therefore cannot recover under any theory of law.

**SIXTH AFFIRMATIVE DEFENSE**

19. The Plaintiffs have failed to mitigate any alleged damages

**SEVENTH AFFIRMATIVE DEFENSE**

20. Defendants, **ST. MARY SCHOOL, BIAGIO M. ARPINO AND THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE**, allege upon information and belief, that if plaintiff sustained injuries or damages at the time and place alleged in plaintiffs' Fourth Amended Complaint, such injuries and damages were the result of the culpable conduct of the plaintiff or because of the plaintiffs' assumption of risk. Should it be found, however, that the answering defendants are liable to the plaintiff herein, any liability being specifically denied, then the answering defendants allege that if any damages are found they should be apportioned among the plaintiff and defendant according to the degree of responsibility that each is found to have in the occurrence in proportion to the entire measure of responsibility for the occurrence.

**EIGHTH AFFIRMATIVE DEFENSE**

21. These answering defendants plead the provisions and terms of CPLR Article 16 otherwise known as claiming limitations of liability and these answering defendants

reserve the right to claim the limitations of liability pursuant to Article 16 of the CPLR, for any recovery herein by the plaintiff for non-economic loss.

**NINTH AFFIRMATIVE DEFENSE**

22. These answering defendants reserve the right to the benefit of any and all offsets from payments and settlements to the plaintiff from any of the other tortfeasors pursuant to General Obligations Law 15-108.

**WHEREFORE**, the answering Defendants, **ST. MARY SCHOOL, BIAGIO M. ARPINO AND THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE** demand that the sole remaining claim against them be dismissed, with prejudice, and for such other relief as the Court deems just and proper, including awarding Defendants costs of this action, plus reasonable attorneys' fees.

Dated: Great River, New York  
September 11, 2019

Yours, etc.,

  
\_\_\_\_\_  
**PATRICK F. ADAMS, P.C.**

**BY: JOSEPH M. NADOR, ESQ.**

Attorneys for Defendants

**ST. MARY SCHOOL, BIAGIO M. ARPINO  
AND THE ROMAN CATHOLIC DIOCESE OF  
ROCKVILLE CENTRE**

3500 Sunrise Highway; Building 300

Great River, New York 11739

(631) 666-6200

**TO: LAW OFFICES OF CORY H. MORRIS**

Attorney for Plaintiffs

D.W.M., a minor by Willie Moore, his father, and Ursula Moore,  
his mother, D.D.M., a minor by Willie Moore, his father and  
Ursula Moore, his mother, and WILLIE MOORE and URSULA  
MOORE

33 Walt Whitman Road, Suite 310

Dix Hills, New York 11746

(631) 450-2515

Cory.H.Morris@protonmail.com

YANNAcone & YANNAcone, P.C.

Attorneys for Plaintiffs

P.O. Box 109

Patchogue, New York 11772

(631) 475-0231

RAY, MITEV & ASSOCIATES, LLP

Attorneys for infant defendant LM by his mother and  
natural guardian KERRI LECHTRECKER, individually  
and as the mother of L.M. an infant

122 North Country Road

Miller Place, New York 11764

631-473-1000

Vesselin@raymitevlaw.com

TIERNEY & TIERNEY, ESQS.

Attorneys for Defendant

KRZYSZTOF MARS and DOROTA MARS

Individually and as the parents and natural guardians  
of M.M. an infant

409 Route 112

Port Jefferson Station, New York 11776

(631) 928-1444

Stephen.ruland@tierneylaw.net

GUERCIO AND GUERCIO

Attorneys for Defendant

MIKE JONES and CHRISTINE JONES, individually  
and as parents and natural guardians of M.J., an infant

77 Conklin Street

Farmingdale, New York 11753

(516) 694-3000

cmestecky@guerciolaw.com

afasano@guerciolaw.com

JMN:kp

[P091119AN]